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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,976	11/20/2001	Haviland Wright	DIS-P029	1715
27313	7590	07/12/2005	EXAMINER	
MARSH FISCHMANN & BREYFOGLE, LLP 3151 S. VAUGHN WAY SUITE 411 AURORA, CO 80014			MACK, RICKY LEVERN	
			ART UNIT	PAPER NUMBER
			2873	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/989,976

Applicant(s)

WRIGHT ET AL.

Examiner

Ricky L. Mack

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 2-14 and 25-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 15-17 and 19-23 is/are rejected.
- 7) ☒ Claim(s) 18 and 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 0402.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Detailed Action.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 1 and 14-24 in the reply filed on 1/10/2005 is acknowledged. The traversal is on the ground(s) that each species is not mutually exclusive. On the contrary, the examiner points out there are unique embodiments provided with unique species, such as different display devices and light source arrangements. This is not found persuasive because the dependent claims provide varied arrangements/embodiments of the claimed invention. Claims which are dependent from claim 1 and withdrawn would be linked to an allowable claim 1 and likewise be allowable.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 2-14 and 25-39 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 1/10/2005.

Claim Rejections - 35 USC § 102

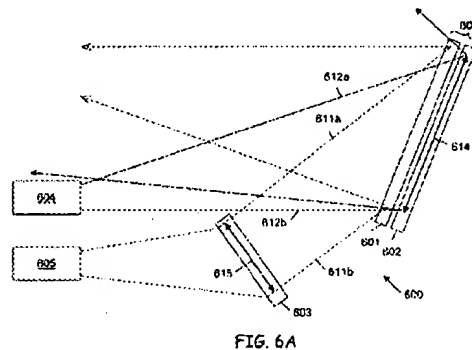
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 15, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Popovich et al. (WO 00/07058).

Popovich discloses (see figure 6A below), as in claims 1, 15 and 17, a display device, comprising: an image-generating arrangement configured to reproduce images, the images being visible to a viewer when the device is operated in either or both of two modes, including a first mode wherein the device produces a real image (614) of the image-generating arrangement, and a mode wherein the device produces a virtual image (615) of the image-generating arrangement.



Popovich discloses, as in claim 19, an image screen (609, 614) upon which the real image of the image-generating arrangement appears when the device is operated in the first mode.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Popovich et al. (WO 00/07058).

Popovich discloses the claimed invention; except for the limitation of a mode-selection arrangement includes a switch having at least two positions that allows an operator of the device to select the desired image-review mode, as in claim 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the optical device with a switch, which is well known and widely used, for the purpose of changing from one desired effect to another. Such motivation would likewise be desired to change from a real image to a virtual image.

Popovich discloses the claimed invention; except for the limitation of an image screen moveable between at least two positions, an active position for use when the first mode is in operation, and an inactive position for use when the first mode is not in operation, as in claims 20-22. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide active and inactive positions as claimed for the purpose of power efficiency and storage.

Popovich discloses the claimed invention; except for the limitation of the image screen is polarized to reject at least a portion of the ambient light present in the device's operating environment, as in claim 23. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the screen of Popovich with a polarized screen to provided better view of image.

Allowable Subject Matter

7. Claims 18 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is an examiner's statement of reasons for allowability: The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of the independent claim(s), in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The prior art fails to teach a combination of all the claimed features as presented in claim(s) 18 and 24, wherein the claimed invention comprises proximity sensor (claim 18) and an image screen having non-unity gain (claim 24), as claimed. The combination of all the claimed features are not anticipated or made obvious by the prior art and all of said features are relied upon for a determination of allowability.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Carnes et al. (EP 0763763 A1) is cited for disclosing an image display with real and virtual imaging modes.

Wright et al. (2002/0113912A1) is the related PG Pub document.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky L. Mack whose telephone number is (571) 272-2333. The examiner can normally be reached on Monday-Friday (6:30 AM to 4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ricky L Mack
Primary Examiner
Art Unit 2873

RM
July 11, 2005